

No. 3604-4Lab-76/15255.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of the Presiding Officer Industrial Tribunal, Faridabad in respect of the dispute between the workmen and the management of M/s Dhanda Engineers Private Limited, N.I.T. Faridabad.

BEFORE SHRI MOHAN LAL JAIN, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL  
HARYANA, FARIDABAD

Reference No. 61 of 1974

Between

SHRI TOTA RAM WORKMAN AND THE MANAGEMENT OF M/S DHANDA ENGINEERS  
PRIVATE LIMITED, N.I.T., FARIDABAD

AWARD

By order No. ID/FD/590/13348, dated 17th May, 1974 the Governor of Haryana, referred the following dispute between the management of M/s Dhanda Engineers Private Limited, N.I.T., Faridabad and its workman Shri Tota Ram to this Tribunal, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947.

Whether the termination of services of Shri Tota Ram was justified and in order? If not, to what relief is he entitled?

The parties put in their appearance in this Tribunal in response to the usual notices of reference sent to them and filed their pleadings.

The workman alleged vide claim statement filed by him that his services as a permanent Turner on wages of Rs. 208 p.m. were terminated by the management illegally with effect from 3rd October, 1973 in order to victimise him. He explained that he proceeded on leave duly sanctioned by the management from 1st July, 1973 to 20th July, 1973 and fell ill on 18th July, 1973 and sent a telegram to the management on 19th July, 1973 informing them about his illness and that he subsequently sent medical certificate to the management relating to his ailment. He added that he remained under treatment till 2nd October, 1973 and that he reported for duty on 3rd October, 1973 when he was not allowed to resume his work and that he thus served a notice of demand on 4th October, 1973 for his reinstatement.

The management while admitting their sanctioning the leave of the workmen for the period from 1st July, 1973 to 20th July, 1973 pleaded that he failed to resume his duty on 21st July, 1973 and sent a telegram dated 21st July, 1973 for extension of his leave without mentioning the period of extension sought for by him and without supporting his request with a medical certificate with the result that they asked him vide letter dated 10th August, 1973 to report for duty and submit medical certificate and that he failed to comply with their orders. They added that they sent him another letter dated 28th August, 1973 inviting his attention to their letter dated 10th August, 1973 and received no response from him with the result that he lost his lien on his service on account of his long absence from duty for more than a month, under the certified standing orders as reproduced below. They denied having received any notice of demands.

"A workman who absents himself without leave or eight consecutive days or more will be deemed to have left the service of the company without notice thereby terminating his employment and in such a case the employment will be automatically terminated and the company may or may not give any notice informing such termination. If the workman within 4 days, thereafter, offers an explanation to the satisfaction of the Department Head, his absence may be converted into leave without pay and he may also be liable to posted on similar or any other inferior job carrying lower basic wages or being posted in the training and allocation centre on lower basic rate. If however, no such explanation is offered within the time aforementioned, the workman will not be entitled to excused even though his absence may have been due to illness or some other reason whatsoever."

The following issues were thus framed on pleas of the parties vide order dated 2nd December, 1974 and 1st August, 1975.

- (1) Whether it is a case of self abandonment of services by Shri Tota Ram, workman concerned?
- (2) Whether the termination of services of Shri Tota Ram was justified and in order? If not, to what relief is he entitled?
- (3) Whether a demand notice was served on the management by the workman before initiating of conciliation proceedings and such a demand was rejected by the former?

I have heard the authorised representatives of the parties and seen the record. I decide the issue as under :—

*Issue No. 1*

This is the most important issue in the case. The management in order to establish their case on this issue examined Shri Ram Sarup Incharge Time office as M.W. 1. He fully corroborated their case with reference to the record brought by him. He deposed that the workman remained absent from duty from 21st July, 1973 to 23rd August, 1973 and that his name was struck off the rolls of their employees under the relevant standing orders of the company reproduced above and that they sent him a letter dated 28th August, 1973 informing him about the same. He stated that they sent him a letter dated 10th August, 1973 copy Ex. M-3 asking him to report for duty and submit the medical certificate but he failed to do so.

The workman in rebuttal appeared as his own witness and gave out that he sent a telegram for extension of his leave on the ground of his illness and that he subsequently sent a medical certificate to the management vide registered letter and that he personally handed over the postal receipt of the registered letter. He added that he obtained the duplicate W-5 of the medical certificate which he had sent to the management and that he obtained medical certificate Exhibit M-6 and fitness certificate Ex. -M-7 dated 18th August, 1973 and 2nd October, 1973 respectively. He denied having received any letter from the management. He admitted that he did not obtain any receipt either of the medical certificate or of the postal receipt of the registered letter that he handed over to Shri Sud.

The workman did not examine any medical officer who gave him the treatment and supplied him the medical certificate M-6 and M-7. It is conceded that he did not specify the period of extension of his leave in the telegramme Ex. M-5 received by the management on 21st July, 1973. It would thus appear from the aforesaid facts that there is no evidence in respect of the workman having furnished any medical certificate in respect of his ailment to the management or even an application for extension of his leave for a specified period, so much so no postal receipt or acknowledgement receipt could be brought on record by him in support of his plea of having sent an application or a medical certificate relating to his ailment. The acknowledgement receipt Ex. W-2 and the postal receipt Ex. W-3 admittedly relate to a notice of demand allegedly sent by him to the management and not to his leave application or the medical certificate alleged to have been sent to the management. The management explicitly denied having received any medical certificate or leave applications from the workmen.

In absence of any documentary evidence on behalf of the workman in support of his allegation that he sent the medical certificate vide registered letter, I am not prepared to rely on his oral statement particularly when it stands rebutted by the testimony of Shri Ram Sarup Time Keeper. I am thus convinced that the pleas, of the management relating to the absence from duty of the workman for the period from 21st July, 1973 to 23rd August, 1973 are correct and justified in all respect and that this is a case of abandonment of the service by the workman under the certified standing orders of the company. I thus decide this issue in favour of the management.

*Issue No. 2.*

In view of my findings on issue No. 1, this is obviously not a case of termination of service of the workman by the management and he is not entitled to any relief. I decide this issue accordingly.

*Issue No. 3.*

The workman established his case on this issue by production of acknowledgement receipt Ext W-2 and postal receipt Ex. W-3 and the notice of demands Ex. W-4 and there is no rebuttal to this documentary evidence. The notice of demand Ex. W-4 bears the signatures of the Conciliation Officer dated 17th October, 1973 proving beyond doubt that a notice of demand was received by the management on 12th October, 1973 vide acknowledgement receipt Ex. W-2 before its copy was handed over to the Conciliation Officer on 17th October, 1973. I thus decide this issue in favour of the workman.

Having regard to my finding on issue No. 1, the workman is not entitled to any relief. I answer the reference while returning the award in terms of the findings made by me.

Dated the 6th April, 1976.

MOHAN LAL JAIN,  
Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

No. 431, dated 7th April, 1976.

Forwarded (four copies) to the Secretary to Government Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

Dated the 7th April 1976.

MOHAN LAL JAIN,  
Presiding Officer,  
Industrial Tribunal, Haryana.,  
Faridabad.